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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,680	09/29/2003	Michael Gabriel	12510/70	5087
26646	7590	05/21/2009	EXAMINER	
KENYON & KENYON LLP			MYINT, DENNIS Y	
ONE BROADWAY				
NEW YORK, NY 10004			ART UNIT	PAPER NUMBER
			2162	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/674,680	GABRIEL ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	DENNIS MYINT	2162

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  They raise the issue of new matter (see NOTE below);
  - (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-27, 29 and 30.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13.  Other: \_\_\_\_\_.

/John Breene/  
Supervisory Patent Examiner, Art Unit 2162

/Dennis Myint/  
Examiner, Art Unit 2162

Continuation of 11. does NOT place the application in condition for allowance because:

Referring to claims 1, 18, and 19, Applicant argued that "Neither Williamson et al. nor Willis et al., whether considered alone or in combination, disclose or suggest these features" (Applicant's argument page 9, second paragraph). Applicant argued that "Willis et al. do not disclose or suggest generating a schedule based on the filtered articles. Further, Willis et al., do not disclose providing its portal information responsive to search criteria" (Applicant's argument, page 9, fourth paragraph).

In response, it is pointed out that the "features in which, in response to a search request, a schedule is generated including scheduling information regarding media content from a plurality of media distribution source types" are taught by Williamson in view of Willis as follows: "generating a results information of a certain type gleaned from the various filtered articles" (Willis, Paragraph 0085, i.e., FIG. 1 is an example of a content presentation system including a system 100. In FIG. 1, external information from an external information source 105 is received by a content generator 110, which generates a corresponding article. Many types of external information sources 105 may be used, as will be discussed in more detail with respect to FIG. 2. Also, content generator 110 may utilize various techniques for gathering and publishing the information as discrete articles. For example, content generator 110 may utilize software agents to gather appropriate information (agents are generally defined as automations running "on a scheduled basis" and querying a data source for information and either producing or not producing content based in part on the result of that query). Moreover, in other implementations, content generator 110 may be included within system 100; Willis Paragraph 0089, i.e., In FIG. 1, then, an article reader 115 accesses articles from content generator 110. Some articles may already include attribute and content metadata information. If a particular article has no associated metadata, a metadata enhancer 120 may be used to examine the content of the article and generate metadata accordingly. Even if some information, such as attribute information, is included with an article, metadata enhancer 120 may be used to further enhance the article; Willis Paragraph 0096, i.e., By accessing databases 135 and 140, content-based router 130 is able to filter articles which are restricted or are of no interest with respect to a particular user. The action of content-based router 130 thus eases the burden on a personalized article processor ("PAP") 145, which has the job of individually prioritizing the remaining articles, based on a comparison of contents of the user preference database 140 to the content and to the content metadata/attributes of each article. See also Willis paragraph 0107 and Paragraphs 0129, 0262, and 0278. Also see Paragraph 0110 of Willis, i.e., a pool of articles from which a subset for each user will be drawn) and "generate a schedule" (Williamson, Figures 12, 13, and 14, and Paragraph 0079, i.e., For example, by pressing guide key 920 on remote control 900 while viewing a program channel display 1010 in FIG. 12 (which may be a live or played back TV show, movie, music video, service or the like), a user may access interactive program guide 1020, which includes program viewing window 1040, current time and channel indicator 1045, program description box 1050, program grid 1060 and menu display 1065) "results obtained from a searching a plurality of media distribution source types" (Willis, Paragraph 0003, i.e., Such sites are generally known as "portals," and provide a central gateway through which users can be presented with options and links to various information sources. In this way, users can check, for example, their stocks, mail, local weather, sports scores, and movie listings; Paragraph 0015, i.e., In another implementation, a system combines the concepts of the portal and personalized content with other delivery channels, such as, for example, telephone, radio, and television; Paragraph 0088, i.e., Articles may be, for example, text, video, audio, HTML, or another available rendering medium, or a combination of two or more of these media. Articles may contain the same piece of content in multiple forms, and may permit generation of one type of content from another, as discussed below; and Paragraph 0094, i.e., One type of router that is capable of performing the functionality of content-based router 130 is known as Elvin and is produced by the Distributed Systems Technology Centre (DSTC). Other types of content-based services include Gryphon, produced by International Business Machines (IBM), and Keryx, a Java-notification service by Hewlett Packard).

Therefore, the method of Williamson in view of Willis as a combination would generate, from results of the searching (Willis), a scheduling including scheduling information (Williamson) from searching a plurality of media distribution source types (Willis). This analysis would answer Applicant's argument on page 13 first paragraph which states that "the modified system would not disclose or suggest the features of any claims of 1, 18, 19, particularly the features of generating a schedule in response to a search request, where the schedule includes scheduling information of results obtained from searching a plurality of media distribution types".

Applicant also argued that "one skilled in the art would not arrive at the features of any of claim 1, 18, and 19 based on the combination of Williamson et al. and Willis et al. without an improper hindsight reconstruction based on Applicant's disclosure" (Applicant's argument, page 11 first paragraph). In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant additionally argued that "claim 16 includes subject matter analogous to that of claims 1, 18, and 19 and is therefore patentable for at least the same reasons set forth above in support of the patentability of claims 1, 18, and 19" (Applicant's arguments, page 11 third paragraph).

In response, it is pointed out that, as discussed in details above, the combination of Williamson and Willis teaches each and every limitation/feature of claims 1, 18, and 19 and, as such, claim 16 is similarly unpatentable over the combination of Williamson and Willis. Applicant also argued that "as for claims 2 to 15 and 20, which ultimately depend from claim 1 and therefor include all of the features recited in claim 1, it is respectfully submitted that the combination of Williamson et al., and Willis et al., dose not render unpatentable these dependent claims for the same reasons set forth above in support of the patentability of claim 1" (Applicant's argument, Page 11, fourth paragraph).

In response, it is pointed out that, as discussed in details above, the combination of Williamson and Willis teaches each and every limitation/feature of claims 1, 18, and 19 and, as such, any dependent claims of said independent claims are rendered unpatentable by the combination of Williamson and Willis.

Referring to claim 23, Applicant argued that "None of the cited sections (or any other section) of Williamson et al., or Willis et al., disclose or suggest a schedule including scheduling information exclusively regarding a selected title. Further, claim 23 has been amended to recite that the schedule includes scheduling information pertaining to multiple ones of the plurality of media distribution source types.

The cited references do not disclose scheduling information regarding a selected title that pertains to multiple media distribution source types. For these additional reasons, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 23, and therefore does not render unpatentable claim 23 for these additional reasons" (Applicant's argument, page 11 fifth paragraph).

In response, it is pointed out that William in view of Willis as a combination teaches each and every limitation of claim 23 as follows: As per claim 23, Williamson in view of Willis teaches the limitations: "generating from the results of the searching an intermediate result page including a plurality of media content titles of the results" (Willis, Paragraph 0125, i.e., FIG. 8 demonstrates an example of an HTML result page 800 that includes article 700. Page 800 is generally organized like a newspaper front page, having a headline 805 (which in this case indicates the enterprise sponsoring the page). A main story 810, corresponding to article 700, is shown in the upper middle portion of the page. A section 815 shows current levels of the Dow Jones, NASDAQ, and S&P 500. The rest of page 800 includes additional hypothetical articles not previously described; Willis' HTML result page maps to the intermediate result page of the claimed invention); "wherein the schedule is generated" ( Williamson, Figures 12, 13, and 14, and Paragraph 0079, i.e., For example, by pressing guide key 920 on remote control 900 while viewing a program channel display 1010 in FIG. 12 (which may be a live or played back TV show, movie, music video, service or the like), a user may access interactive program guide 1020, which includes program viewing window 1040, current time and channel indicator 1045, program description box 1050, program grid 1060 and menu display 1065) "responsive to a selection of one of the titles of the intermediate results page" (Willis, Paragraph 0126, i.e., The filtering, sorting, prioritizing, and paginating processes already described determine whether an article is displayed in full size (for example, article 700 in section 810), simply as a link (for example, links within sections 820, 825, 830, 835, 840, and 850, which are shown grouped together with similar articles), with a "more" link (not shown) that does not include any details but allows access to additional articles) and "includes scheduling exclusively regarding the selected title" (Williamson, Paragraph 0099, i.e., Through the user interface, users can then search program data for content that matches the criteria in a user's profile and return the results to the user's lists of Favorite programs). Note that in the method of Williamson in view of Willis as a combination, a user can select a title (Williamson) from the intermediate result page (Willis) which includes links which could be selected to access more results, that is, generate schedule (s) (as taught by Williamson) "and pertaining to multiple ones of the plurality of media distribution source types" (Willis, Paragraph 0003, i.e., Such sites are generally known as "portals," and provide a central gateway through which users can be presented with options and links to various information sources. In this way, users can check, for example, their stocks, mail, local weather, sports scores, and movie listings; Paragraph 0015, i.e., In another implementation, a system combines the concepts of the portal and personalized content with other delivery channels, such as, for example, telephone, radio, and television; Paragraph 0088, i.e., Articles may be, for example, text, video, audio, HTML, or another available rendering medium, or a combination of two or more of these media. Articles may contain the same piece of content in multiple forms, and may permit generation of one type of content from another, as discussed below; and Paragraph 0094, i.e., One type of router that is capable of performing the functionality of content-based router 130 is known as Elvin and is produced by the Distributed Systems Technology Centre (DSTC). Other types of content-based services include Gryphon, produced by International Business Machines (IBM), and Keryx, a Java-notification service by Hewlett Packard).

Referring to claim 25, Applicant argued that " As further regards claim 25, the claim recites that "the user profile identifies, for each of a plurality of source types, respective preferred media distribution sources." The Office Action refers to pars. 0084 and 0102 of Williamson et al. as assertedly disclosing this feature. The cited sections of Williamson et al. are unrelated to preferred media distribution sources. Moreover, the Office Action apparently intends to refer to currently broadcast and upcoming programs as disclosing a plurality of source types. However, the cited sections of Williamson et al. do not disclose identification of respective preferred distribution sources for the currently broadcast programs and upcoming programs. For this additional reason, the combination of Williamson et al. and Willis et al. does not disclose or suggest all of the features of claim 25, and therefore does not render unpatentable claim 25 for this additional reason" (Applicant's argument, page 12 second paragraph through page 14 first paragraph).

In response, it is pointed out that Williamson in view of Willis as a combination teaches "the user profile identifies, for each of a plurality of source types, respective preferred media distribution sources" (Williamson, Paragraph 0102, i.e., Referring to FIG. 16, a user may create a new profile by using select key 960 of remote control 900 to select the "Create New Profile" link from Favorites submenu 1420 to display search parameters from which a user may choose (1450). These parameters may include programming category, actor(s) name, program title, director, keyword and the like; Paragraph 0102, i.e., Similarly, a user may create a profile which provides a user access to all available programming on a certain topic. For example a profile relating to cooking may include in-progress broadcasts, past broadcasts and out-of-market cooking programs. In such circumstances, the user may associate a descriptive name to the profile (such as "Weekend Programs", "My Cooking Stations", etc.) and access each of the multiple profiles at different times; and Paragraph 0084, i.e., ... My Shows GUI 1100B lists several categories to assist a user in locating a program through the My Shows feature. Some of these categories may be temporal in nature; that is, a user's reserved programs may be categorized by those programs that are in-progress (i.e., currently broadcast), upcoming (i.e., to be broadcast in the future) or by the reservation date of the program. In one embodiment of the invention, programs that are categorized by reservation date are listed in chronological order beginning with shows that have been most recently reserved (1100C) or in reverse chronological order); Willis, Paragraph 0003, i.e., Such sites are generally known as "portals," and provide a central gateway through which users can be presented with options and links to various information sources. In this way, users can check, for example, their stocks, mail, local weather, sports scores, and movie listings; Paragraph 0015, i.e., In another implementation, a system combines the concepts of the portal and personalized content with other delivery channels, such as, for example, telephone, radio, and television; Paragraph 0088, i.e., Articles may be, for example, text, video, audio, HTML, or another available rendering medium, or a combination of two or more of these media. Articles may contain the same piece of content in multiple forms, and may permit generation of one type of content from another, as discussed below; and Paragraph 0094, i.e., One type of router that is capable of performing the functionality of content-based router 130 is known as Elvin and is produced by the Distributed Systems Technology Centre (DSTC). Other types of content-based services include Gryphon, produced by International Business Machines (IBM), and Keryx, a Java-notification service by Hewlett Packard

Applicant also argued that that "as for claim 17, which depends from claim 16 and therefor include all of the features recited in claim 16, it is respectfully submitted that the combination of Williamson et al., and Willis et al., dose not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 16" (Applicant's argument, Page 12, third paragraph).

In response, it is pointed out that, as discussed in details above, the combination of Williamson and Willis teaches each and every

limitation/feature of claims 1, 18, and 19 as well as claim 16 and, as such, any dependent claims of said independent claims are rendered unpatentable by the combination of Williamson and Willis.

Applicant also argued that "as for claim 21, which depends from claim 18 and therefor include all of the features recited in claim 18, it is respectfully submitted that the combination of Williamson et al., and Willis et al., dose not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 18" (Applicant's argument, Page 12, fourth paragraph).

In response, it is pointed out that, as discussed in details above, the combination of Williamson and Willis teaches each and every limitation/feature of claims 1, 18, and 19 as well as claim 16 and, as such, any dependent claims of said independent claims are rendered unpatentable by the combination of Williamson and Willis.

Applicant also argued that "as for claim 22, which depends from claim 19 and therefor include all of the features recited in claim 19, it is respectfully submitted that the combination of Williamson et al., and Willis et al., dose not render unpatentable this dependent claim for the same reasons set forth above in support of the patentability of claim 1" (Applicant's argument, Page 12, fifth paragraph).

In response, it is pointed out that, as discussed in details above, the combination of Williamson and Willis teaches each and every limitation/feature of claims 1, 18, and 19 as well as claim 16 and, as such, any dependent claims of said independent claims are rendered unpatentable by the combination of Williamson and Willis.

Referring to claim 26, Applicant argued that "The combination of the sections thus does not include information generic to all of the media distribution source types and does not include information specific to each separate media distribute source type" (Applicant's argument, page 13last paragraph).

In response, it is pointed out that said the limitation "a fist section having generic information of the results that applies to all of the media distribution source types from which the results are obtained and not including information that is specific to any one of the media distribution source types" is taught by Sherr in Figure 9, i.e., "914, A romantic comedy about a sports agent who suddenly discovers his scruples"; Note that item 914 of Figure 9 of Sherr is a display section which includes generic information of the search results; Item 902 of said Figure 9 shows "specific information" and "source types" of reviews; Also note Paragraph 0094 of Sherr, i.e., "A synopsis 914 of the selected content item (such as a movie synopsis) may also be included on the focused page 909 .

Referring to claim 29, Applicant argued that "Claim 29 includes subject matter analogous to that of claim 1 and is therefore allowable at least essentially the same reasons as claim 1" (Applicant's argument, page 15 third paragraph).

In response, Applicant is directed to the response regarding claim 1 above, which clearly discusses how Williamson in view of Willis teaches the features in question.

In view of the above, the examiner contends that all limitations as recited in the claims have been addressed in this Action. For the above reasons, Examiner believed that rejection of the last Office Action is proper.

/Dennis Myint/  
Examiner, AU-2162